



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on December 22, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST-98-4522-7

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of American Airlines, Inc. tiled 9/30/98 for:

XX Exemption under 49 U.S.C. § 40109 for American to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between points in the United States and Riga, Latvia; Tallinn, Estonia; and St. Petersburg, Russia via Helsinki, Finland. American plans to operate this service under a code-share arrangement with Finnair Oy.¹

United Air Lines and Delta Air Lines filed answers.² American/Finnair and United tiled replies.³

Applicant rep: Carl B. Nelson (202) 496-5647 DOT Analyst: Michael D. Bodman (202) 366-9667

DISPOSITION

XX Granted in part, subject to conditions (see below).

XX Balance deferred (i.e. service to St. Petersburg, Russia -- see remarks below).

The above action was effective when taken: December 22, 1998, through December 22, 2000.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX The authority granted is consistent with the aviation agreement between the United States and Finland and the overall state of aviation relations between the United States and Latvia and the United States and Estonia.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

XX Statement of Authorization for American and Finnair code-share operations dated December 22, 1998, and conditions therein.

Remarks: Delta's submission entirely and United's submission in large part raised issues relating to American's proposed service to St. Petersburg, Russia. On December 17, 1998, i.e. subsequent to the filing of those submissions, American and Finnair submitted a joint letter stating that "they do not object to deferral of their request to conduct code-share services to St. Petersburg, Russia." We accordingly

¹ Concurrently with our action on this exemption application, we granted by separate action the joint application of American and Finnair (undocketed) for a Statement of Authorization to conduct code-share service.

² Delta's answer was accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

³ The American/Finnair and United replies were accompanied by motions for leave to file an otherwise unauthorized document. We will grant the motions.

⁴ We have placed a copy of the letter in Docket OST-98-4522.

decided to defer action on the St. Petersburg request and, in these circumstances, did not need to reach the issues raised by Delta and United relating to Russia. United also raised issues relating to exclusivity. The joint December 17 letter tiled for the record an amendment to the American/Finnair code-share agreement to delete the exclusivity clause. Accordingly, we need not address that issue here.'

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or deferred, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may tile their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the tiling of a petition for review will not alter such effectiveness.

*An electronic version **of** this document is available on the World Wide Web at:
<http://dms.dot.gov/general/orders/aviation>*

⁵ While the code-share agreement as amended did not include provisions regarding exclusive dealings between the code-sham parties, should the parties subsequently decide to amend their code-share arrangement to include any provision relating to an exclusive arrangement between the parties, that amended language must first be submitted for consideration by the Department.

U.S. CARRIER
Standard Exemption Conditions

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.